

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #2	CCRB Case #: 201807050	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 08/25/2018 11:50 PM, Sunday, 08/26/2018	Location of Incident: Myrtle Avenue and Central Avenue	Precinct: 83	18 Mo. SOL 2/25/2020	EO SOL 2/25/2020	
Date/Time CV Reported Sun, 08/26/2018 7:45 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 08/26/2018 7:45 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POF Abiola Errico	05701	947308	083 PCT
2. POM Collin Gordon	02334	964532	083 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Abiola Errico	Abuse: Police Officer Abiola Errico detained § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Collin Gordon	Abuse: Police Officer Collin Gordon detained § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On August 26, 2018, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System.

At approximately 11:50 p.m. on August 25, 2018, § 87(2)(b) was riding his bicycle near the intersection of Myrtle Avenue and Central Avenue in Brooklyn. § 87(2)(b) a motorist, passed § 87(2)(b) on the street. He cursed and shouted as he drove by § 87(2)(b). § 87(2)(b) later caught up to § 87(2)(b)'s vehicle at a red light and rode his bicycle along the passenger's side of the vehicle. § 87(2)(b) allegedly lost his balance and fell, striking the right side-view mirror of the vehicle as he went down. § 87(2)(b) accused § 87(2)(b) of intentionally breaking the mirror and demanded that § 87(2)(b) reimburse him for the damage. § 87(2)(b) feared for his safety and asked a bystander, § 87(2)(b) to call 911.

Police Officer Abiola Errico and Police Officer Collin Gordon of the 83rd Precinct responded to the scene of the dispute. § 87(2)(b) told the officers that § 87(2)(b) had broken his mirror and that he wanted § 87(2)(b) to pay to have the mirror repaired. Police Officer Errico asked § 87(2)(b) how he wanted to resolve the situation. § 87(2)(b) allegedly told the officers that he wanted to see a judge. Police Officer Errico and Police Officer Gordon responded by placing § 87(2)(b) in handcuffs (**Allegations A and B: Abuse of Authority – Detainment**, § 87(2)(g)). § 87(2)(b) told the officers that he was willing to pay § 87(2)(b) for the damage to his vehicle. The officers released § 87(2)(b) from his handcuffs. § 87(2)(b) took out \$120 in cash from a nearby ATM and handed it to § 87(2)(b). The officers then left without arresting § 87(2)(b) or issuing him a summons.

No video footage was found for this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Abiola Errico detained § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Collin Gordon detained § 87(2)(b)

§ 87(2)(b) provided a telephone statement on August 30, 2018 (See Board Review #01: § 87(2)(b)'s Telephone Statement). He was interviewed at the CCRB on September 10, 2018. § 87(2)(b) provided a telephone statement on September 26, 2018 (See Board Review #02: § 87(2)(b) Statement). Police Officer Errico and Police Officer Gordon were interviewed at the CCRB on November 8, 2018. § 87(2)(b) did not respond to multiple contact attempts (See Board Review #03: Civilian Contact Attempts). The investigation was therefore unable to obtain a statement from him.

It is undisputed that § 87(2)(b) accused § 87(2)(b) of damaging his side view mirror and that he communicated this accusation to Police Officer Errico and Police Officer Gordon. § 87(2)(b) initially refused to pay § 87(2)(b) for the damage to his vehicle. He was subsequently placed in handcuffs by the officers.

§ 87(2)(b) made no mention of being intoxicated during the incident. § 87(2)(b) stated that a motorist, identified by the investigation as § 87(2)(b) drove past him and cursed at him as he was riding along the street on a bicycle. § 87(2)(b) then came to a stop at a red light. § 87(2)(b) caught up to § 87(2)(b) and pulled his bicycle along the right side of § 87(2)(b)'s vehicle. He then lost his balance and fell to the ground. He struck the right side-view mirror of § 87(2)(b)'s vehicle. § 87(2)(b) then drove away. § 87(2)(b) did not see if he caused any damage to the mirror at that time. § 87(2)(b) drove about four hundred feet forward before stopping his vehicle. He then got out of the vehicle and walked back to § 87(2)(b). He accused § 87(2)(b) of intentionally breaking the mirror off of his vehicle. § 87(2)(b) could not see the vehicle at that distance and did not know if the mirror was damaged in any way. § 87(2)(b) grabbed § 87(2)(b) and shoved him against the side of a nearby parked car. § 87(2)(b) was concerned that § 87(2)(b) was going to harm him, so he called out to a bystander, identified by the investigation as § 87(2)(b) and asked him to call 911.

Police Officer Errico and Police Officer Gordon responded to the location a few minutes later. The officers first spoke to § 87(2)(b). § 87(2)(b) did not hear what they said to each other. The officers then walked over to § 87(2)(b) and asked him what had happened. § 87(2)(b) started telling the officers what had happened, but Police Officer Errico quickly cut him off and told him that he had to pay § 87(2)(b) for damages caused to his mirror. § 87(2)(b) said that he wanted at least \$100 for his mirror. § 87(2)(b) complained that § 87(2)(b) had pushed him against the side of a car. Police Officer Errico asked § 87(2)(b) “Do you want to see a judge?” § 87(2)(b) interpreted this to mean that Police Officer Errico was offering to obtain the services of a third-party mediator to resolve his dispute with § 87(2)(b). § 87(2)(b) replied, “Yes.” Police Officer Errico then placed § 87(2)(b) in handcuffs. § 87(2)(b) asked why he was being arrested. Police Officer Errico replied that he was being charged with disorderly conduct. § 87(2)(b) told Police Officer Errico that if the alternative to paying § 87(2)(b) was being arrested, then he would rather pay § 87(2)(b). Police Officer Errico removed § 87(2)(b)'s handcuffs. § 87(2)(b) went to a nearby ATM, withdrew \$120 in cash, and gave it to § 87(2)(b). Police Officer Errico told § 87(2)(b) that the matter had been “settled civilly.” She and Police Officer Gordon left. § 87(2)(b) was not ultimately arrested or issued a summons.

§ 87(2)(b) stated that two males arrived at the location and spoke with § 87(2)(b) before the police arrived. Both males were present when § 87(2)(b) was handcuffed. Neither § 87(2)(b) nor the officers knew these individuals' names or contact information. § 87(2)(b) also stated that two § 87(2)(b) were present, but that he refused their offer of medical attention. As a result, no paperwork was prepared to document the § 87(2)(b) identities. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) stated that he and his wife observed a motorist, identified by the investigation as § 87(2)(b) and a cyclist, identified by the investigation as § 87(2)(b) arguing in the street. § 87(2)(b) did not know either § 87(2)(b) or § 87(2)(b). § 87(2)(b) accused § 87(2)(b) of knocking the side-view mirror off his vehicle. § 87(2)(b) had not seen what occurred between the two individuals before they started arguing. He did not see if § 87(2)(b)'s vehicle was damaged in any way. § 87(2)(b) appeared to be physically intimidated by § 87(2)(b) who appeared upset. § 87(2)(b) and his wife told § 87(2)(b) to calm down. § 87(2)(b) started

yelling at § 87(2)(b) and his wife instead. § 87(2)(b) walked about a block away from § 87(2)(b) and § 87(2)(b) and called 911 to report the dispute. He left the location before the police responded to the location and spoke to § 87(2)(b) and § 87(2)(b) was not aware of any officers handcuffing § 87(2)(b). He made no mention of § 87(2)(b) appearing to be intoxicated.

Police Officer Errico's and Police Officer Gordon's statements were generally consistent with each other, except as noted. Both officers stated that they responded to the incident location after receiving a report over the radio of a vehicle accident. When they arrived, they spoke to § 87(2)(b) and § 87(2)(b) was calm, but § 87(2)(b) was upset. Both officers detected the odor of alcohol on § 87(2)(b)'s breath, leading them to suspect that he was intoxicated. Both civilians denied that there had been a vehicle accident. § 87(2)(b) told the officers that he had passed § 87(2)(b) on the street, and that § 87(2)(b) subsequently rode up next to his vehicle and broke his right side-view mirror off. Both officers observed the damage to § 87(2)(b)'s vehicle themselves. Police Officer Errico stated that § 87(2)(b) confirmed that he had deliberately broken § 87(2)(b)'s side-view mirror. Police Officer Gordon stated that § 87(2)(b) initially said that he leaned on the mirror, causing it to break, but later stated that he accidentally struck the mirror as he maneuvered his bicycle next to § 87(2)(b)'s vehicle. § 87(2)(b) did not deny causing the damage to § 87(2)(b)'s vehicle. Both § 87(2)(b) and § 87(2)(b) also stated that § 87(2)(b) held § 87(2)(b) down on the ground to prevent him from leaving before the police arrived.

Both officers stated that since § 87(2)(b) had admitted to damaging § 87(2)(b)'s mirror, he was guilty of criminal mischief. They denied that § 87(2)(b) was suspected of any other criminal activity beyond criminal mischief. Police Officer Errico and Police Officer Gordon both stated that they asked § 87(2)(b) how he wanted them to proceed. § 87(2)(b) stated that he was primarily interested in getting his mirror repaired, and that he did not want to press criminal charges against § 87(2)(b) if it could be avoided. Police Officer Errico then spoke to § 87(2)(b) and offered him a choice. Police Officer Errico stated that she told § 87(2)(b) that he could handle the matter "civilly" or "criminally." Police Officer Gordon stated that Police Officer Errico offered § 87(2)(b) a choice between handling the matter "civilly" or through the "criminal justice system." Both officers explained in their CCRB statements that Police Officer Errico's first option referred to § 87(2)(b) making an agreement with § 87(2)(b) about how to reimburse him for the damage to the mirror. Police Officer Errico's second option referred to the officers arresting § 87(2)(b) for criminal mischief.

Police Officer Errico stated that § 87(2)(b) told her, "I want to go to court." She interpreted this as § 87(2)(b) choosing the second option. Police Officer Gordon stated that § 87(2)(b) stated that he did not want to handle the matter "civilly" and that he would go through the "criminal justice system." As such, the officers placed § 87(2)(b) under arrest for criminal mischief. Police Officer Gordon placed him in handcuffs. § 87(2)(b) then changed his mind and said that he would be willing to pay § 87(2)(b) for the damage to his mirror. Police Officer Gordon then removed § 87(2)(b)'s handcuffs. § 87(2)(b) and § 87(2)(b) agreed on a monetary value for the damages between themselves. § 87(2)(b) then drew cash from a nearby ATM and gave it to § 87(2)(b). The officers considered the issue to be settled at that time and took no further action towards § 87(2)(b).

New York Penal Law §145.00 states that a person is guilty of criminal mischief in the fourth degree when, having no right to do so nor any reasonable ground to believe that he or she has such right, he or she intentionally damages property, or recklessly damages property (See Board Review #04: Legal Reference).

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (See Board Review #07: Civilian CCRB History).
- Police Officer Errico has been a member of the service for ten years and has been a subject in two previous CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Gordon has been a member of the service for one year and this is the first CCRB complaint to which he has been a subject.

Page 5

CCRB Case # 201807050

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of December 4, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review #08: Notice of Claim).
- According to the Office of Court Administration, § 87(2)(b) has no history of convictions in New York City (See Board Review #09: Civilian Conviction History).

Squad No.: _____

Investigator: _____

Signature _____ Print Title & Name _____ Date _____

Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature _____ Print Title & Name _____ Date _____